

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 685 Florida Retirement System
SPONSOR(S): Simmons
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 420

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Schools & Learning Council	14 Y, 0 N, As CS	Kooi	Cobb
2) Policy & Budget Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

CS/HB 685 expands membership in optional retirement programs to certain public education employees. Specifically, the PCS/HB 685 qualifies the following employees as eligible for these alternative programs:

- Public community college or community college-sponsored charter technical career center renewed members in the Regular Class of the Florida Retirement System (FRS); and
- State University System renewed members of the FRS.

A one-time opportunity is provided to allow a State University System Optional Retirement Program participant to transfer from that program to the FRS or the Public Employee Optional Retirement Program.

CS/HB 685 substantially amends sections 121.051, 121.35, and 121.4501 of the Florida Statutes.

CS/HB 685 does not appear to have a fiscal impact on state or local governments.

CS/HB 685 also provides that this act shall take effect July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty- CS/HB 685 expands retirement plan options for certain community college and university employees and provides certain state university employees a one-time opportunity to transfer to a different retirement program.

B. EFFECT OF PROPOSED CHANGES:

Background

Florida Retirement System (FRS)

Chapter 121, F.S., contains the Florida Retirement System Act.¹ Section 121.051, F.S., provides that participation in the FRS is generally compulsory for all officers and employees, except in certain instances.² Employees who meet specified eligibility criteria are authorized to participate in various optional retirement programs. If an employee so elects, accrual of benefits under the FRS ceases, and is replaced by the alternative program.

State Community College System Optional Retirement Program

Public community colleges or charter technical career center employees who are members of the Regular Class of the FRS are authorized to elect participation in the State Community College System Optional Retirement Program.³ A defined contribution program as classified in section 403(b) of the Internal Revenue Code, this program provides retirement and death benefits through contracts with designated insurance carriers. Each community college contributes on behalf of each participant a percentage of the participant's salary as required by law. As of July 1, 2006, this contribution rate remains 10.43 percent, which includes a portion representing the Health Insurance Subsidy program provided to FRS retirees.

Optional Retirement Program for the State University System

An optional retirement program for the State University System is available to persons who are otherwise eligible for membership in the FRS, and are either:

- i. Employed as instructional and research faculty in exempt positions;
- ii. Employed in administrative and professional positions in exempt positions; or
- iii. The Chancellor and the university presidents.⁴

Employees who become eligible to participate after January 1, 1993 are compulsory participants of the program unless the employee elects membership in the FRS.⁵ A defined contribution program as classified in section 403(b) of the Internal Revenue Code, this program provides retirement and death benefits through contracts with designated insurance carriers. The employing university contributes on behalf of each participant a percentage of the participant's salary as required by law. As of July 1, 2006,

¹ Section 121.011(1), F.S.

² Section 121.051(1)(a), F.S., excludes faculty employed at a university medical center through a faculty practice plan; s. 121.051(1)(d), F.S., excludes certain employees of a not-for-profit corporation or association by the Board of County Commissioners of Palm Beach County, and consultants or independent contractors.

³ Section 121.051(2)(c), F.S.

⁴ Section 121.35(2), F.S.

⁵ Section 121.35(3)(c), F.S.

this contribution rate remains at 10.43 percent of the participant's salary, including a portion representing the Health Insurance Subsidy Program.

Public Employee Optional Retirement Program

This plan is commonly known as the FRS Investment Plan, and is a recently-provided option to the FRS Pension Plan.⁶

Employees eligible to participate include:

- Those who participate in, or are eligible to participate in the State Community College Optional Retirement Program; or,
- Those who are eligible to participate in, but do not participate in the State University System Optional Retirement Program.⁷

FRS employers contribute a set percentage of each participating employee's monthly compensation to the program, based on membership class. Participants vest after completion of one year of covered service.

Effects of Proposed Changes

CS/HB 685 makes available certain options for public education employees:

- Regarding employees of community colleges or charter technical career centers sponsored by community colleges, this bill expands participation in the State Community College System Optional Retirement Program to include those that are eligible for renewed membership in the Regular Class of the Florida Retirement System (FRS);
- Regarding employees of the state university system, this bill expands participation in the Optional Retirement Program for the State University System to include those eligible for renewed membership in the FRS; and
- Employees who have elected participation in the State University System Optional Retirement System have the one-time option of transferring to either the FRS or the Public Employee Optional Retirement Program.

CS/HB 685 provides for a transfer of benefits and cessation from future benefits under the original program for employees who elect participation in the State University System Optional Retirement Program.

For employees who elect transfer to the FRS from the State University System Optional Retirement Program, service credit is based on the actuarially determined accumulated benefit obligation for that period of service, and the transfer sum is determined by a formula and methodology certified by an enrolled actuary.

Regarding participation in the Public Employee Optional Retirement Program, PCS/HB 685 expands the definition of an eligible employee by both removing the restriction on employees participating in an optional retirement program, and including participants in the State University System Optional Retirement Program.

CS/HB 685 takes effect July 1, 2007.

The Department of Management Services raised the following issues regarding the original bill:

⁶ Chapter 2000-169, L.O.F., provided for the creation of the optional investment plan.

⁷ Section 121.4501(2)(f), F.S.

- With the current effective date, insufficient time is allotted to provide for the creation of election transfer educational materials and ballots, and changes to the database, regarding the provision of a transfer to the FRS defined benefit or investment plan for State University System Optional Retirement Program participants.
- Providing an open election window for State University System Optional Retirement Program participants, although consistent with that provided to Community College Optional Retirement Program participants, grants far greater flexibility to these groups than that provided to other groups that are similarly situated.
- Providing automatic enrollment in the FRS, in addition to the other options available, creates confusion about which election is being selected.
- This bill does not reconcile the issue that certain faculty members employed in faculty practice plans are mandatory State University System Optional Retirement Program participants and ineligible to elect participation in the FRS.

CS/HB 685 addresses all of the issues raised by the Department of Management Services in its impact analysis and specifically addresses the proper recognition of the appropriate actuarial benefit obligation and the creation of a one-year selection window from January 1 through December 31, 2008, to minimize the anti-selection bias that could be created by participants effectively "day-trading" their plan choices as an investment option itself.

C. SECTION DIRECTORY:

Section 1. Amending s. 121.051, F.S.; revising conditions for membership in the State Community College System Optional Retirement Program.

Section 2. Amending s. 121.35, F.S.; revising conditions for membership in the State University System Optional Retirement Program; authorizing transfer of funds for specified earned credit between the Florida Retirement System and such optional retirement program; authorizing a transfer of membership between the State University System Optional Retirement Program and the Florida Retirement System

Section 3. Amending s. 121.4501, F.S.; redefining the term "eligible employee" for purposes of the Public Employee Optional Retirement Program; revising conditions for participation in the Public Employee Optional Retirement Program

Section 4. Providing for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

CS/HB 685 does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

CS/HB 685 does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

CS/HB 685 does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

CS/HB 685 does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Employees that qualify for optional retirement programs or transfer of benefits pursuant to this bill may benefit through the new options available.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

CS/HB 685 does not appear to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

CS/HB 685 does not appear to reduce the percentage of a state tax shared with counties or municipalities.

CS/HB 685 does not appear to reduce the authority that municipalities have to raise revenue.

2. Other:

Section 14 of Article X of the State Constitution requires that any changes made to a publicly funded retirement or pension system resulting in an increase in member or beneficiary benefits must also include provision for the funding of the increase in benefits on a sound actuarial basis.

The Milliman study analysis of this bill concludes that this bill meets the requirements of Article X, Section 14 of the State Constitution. Finding no fiscal impact overall, the study specifically provides:

There is no fiscal impact on the FRS if certain renewed members of the FRS employed at community colleges and state universities are allowed participation in their optional retirement plans as the option already exists for otherwise eligible FRS members, and the potential class of new members is small; and

There is no fiscal impact from authorizing a State University System Optional Retirement Program participant to transfer from the FRS to the State University System Optional Retirement account a sum representing the fixed period stated in the bill, because the amount would be the present value of the accumulated benefit obligation for the corresponding service credit and would eliminate any long term liability for the service credit.

B. RULE-MAKING AUTHORITY:

CS/HB 685 does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES